

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PR Docket No. 93-61

In the Matter of)
)
 Amendment of Part 90 of the)
 Commission's Rules to Adopt)
 Regulations for Automatic Vehicle)
 Monitoring Systems)

To: The Commission

REPLY COMMENTS OF ITRON, INC.

Itron, Inc. ("Itron") hereby submits the following reply comments with respect to the Public Notice released in the above-captioned proceeding on February 9, 1994, in connection with certain ex parte submissions made in this proceeding by Pactel Teletrac ("Teletrac"), Southwestern Bell Mobile Systems, Inc. ("SBMS"), and MobileVision, L.P. ("MobileVision"). Teletrac's ex parte submission was in the nature of a new proposal for the operation of wideband LMS systems in the 902-928 MHz band. Itron is the worldwide leader in providing RF-based, automatic meter reading ("AMR") systems for use by gas and electric utilities.

I. UNLICENSED PART 15 USERS HAVE BEEN GALVANIZED IN OPPOSITION TO THE ESTABLISHMENT OF WIDEBAND LMS SYSTEMS IN THE 902-928 MHZ BAND.

Unlicensed, Part 15 users, a group that is by nature heterogeneous, have been galvanized in their opposition to the establishment of wideband LMS systems in the 902-928 MHz band. This phenomenon is illustrated not only by the Part 15 Coalition, which has participated in this proceeding from the outset, but also by the recent formation of the Ad Hoc Utilities Coalition, a coalition of twenty-three utility distribution companies located throughout the nation that came together for the sole purpose of protecting their substantial investment in unlicensed, Part 15 AMR devices. In its comments, the Ad Hoc Utilities Coalition states, "[our] essential concern is that wide-band AVM use of the 902-928 MHz band is incompatible with existing users of that spectrum."¹

¹ *Comments of the Ad Hoc Utilities Commission at 5.*

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That the establishment of wideband LMS systems in the 902-928 MHz band will result in harmful interference between Part 15 users and wideband LMS service providers is, at this point, a matter of public record. The National Retail Federation, representing over 1.3 million retail establishments, notes that, if LMS systems are permitted to operate throughout the 902-928 MHz band, retailers would lose billions of dollars from Part 15 devices rendered obsolete by interference with wideband LMS systems.² These billions of dollars would be passed on to the public in the form of higher prices for goods and services.

In short, unlicensed Part 15 users have come together in unprecedented numbers to state, unequivocally, that Teletrac's proposal, by jeopardizing the substantial existing investment in life-enhancing Part 15 devices, and by threatening to undermine the continued provision and development of these devices, is contrary to the public interest and, therefore, must be rejected.

II. TELETRAC'S PROPOSAL DOES NOT IMPROVE THE OPERATING ENVIRONMENT FOR PART 15 USERS.

While Part 15 users, narrowband LMS service providers,³ and wideband LMS service providers⁴ alike take issue with Teletrac's proposed plan, Teletrac claims that its proposal will improve the operating environment for the Part 15 industry.⁵ Nearly every party that focused directly on this issue, however, found that Teletrac's proposal, in fact, does nothing to resolve the potential for interference between Part 15 users and wideband LMS systems and may, in fact, actually increase that potential.⁶

As a number of commenters point-out,⁷ while interference to Part 15 devices from wideband LMS systems is unlikely, interference from Part 15 devices to wideband LMS systems, such as Teletrac's, given its fragility, is a serious technical issue. After carefully reviewing Teletrac's proposal, TIA concludes that it would not "reduce the potential for such interference to any degree whatsoever" and, because

² *Comments of the National Retail Federation* at 7. See also *Comments of KMart Corporation* at 1, noting that it alone has invested over \$40 million in Part 15 devices, and approximately ten times that amount in associated computer hardware, software and training.

³ See, e.g., *Additional Comments of MFS Network Technologies, Inc. and Texas Instruments Incorporated* at 2; *Comments of Science Applications International Corp.* at 2; *Comments of AT&T* at 2.

⁴ *Comments of MobileVision* at 19-24; *Comments of SBMS* at 13-20.

⁵ *Comments of Teletrac* at i.

⁶ See, e.g., *Comments of Ademco* at 5-12; *Comments of Metricom, Inc.* at 7 and 13-16.

⁷ See, e.g., *Comments of Mobile & Personal Communications Consumer Radio Section of the Telecommunications Industry Association ("TIA")* at 8; *Comments of Metricom* at 8.

the proposal envisions two LMS providers sharing a single band, might actually increase this potential.⁸

Teletrac, in its comments, proposes a new definition for harmful interference which, it purports, will enhance the stability of the Part 15 environment.⁹ However, given the well-established susceptibility to interference of Teletrac's system and the low threshold of interference deemed harmful in the proposed definition, Teletrac's definition offers no real protection to unlicensed users and, therefore, in no way improves the Part 15 operating environment.¹⁰

III. THE COMMISSION SHOULD ABANDON ITS PROPOSAL TO ESTABLISH WIDEBAND LMS SYSTEMS IN THE 902-928 MHz BAND.

It is apparent from the record developed in this proceeding that the time is not ripe for the Commission to adopt its proposal to establish wideband LMS systems in the 902-928 MHz band. These systems create an unavoidable risk of interference regarding unlicensed use of the Part 15 spectrum and, therefore, jeopardize the substantial existing investment in unlicensed Part 15 devices and the continued provision and future development of these devices. It is also apparent that this risk is not worth taking because there are alternative location monitoring technologies now in existence (e.g., global positioning satellites), and because -- should the Commission ultimately conclude that wideband LMS systems are in the public interest -- alternative spectrum suitable for these systems is being made available by the federal government.¹¹

⁸ *Comments of TIA* at 8. TIA has made repeated attempts to organize a test program with Part 15 manufacturers and Teletrac to evaluate the potential for interference between Teletrac's system and wireless Part 15 devices. *Comments of TIA* at 7. Teletrac, however, consistently has declined to participate in such a program, calling into question the good faith of its assertions that its system and Part 15 devices can coexist without harmful interference. *Id.*

⁹ *Comments of Teletrac* at 10.

¹⁰ MobileVision states in its comments that its spectrum allocation plan, coupled with the other recommendations it makes in Annex 2 to its comments, will accommodate the stated needs of Part 15 users. *Comments of MobileVision* at Summary, 5-6, 30-31, and Annex 2. However, even under a plan that wideband LMS operate in the 902-910 MHz and 920-928 MHz bands, Part 15 users would also remain relegated to secondary status with narrowband LMS systems and developmental licensees in the 910-920 MHz band. Thus, MobileVision would deny unlicensed users sufficient spectrum for their existing operations, let alone adequate spectrum for future development. In short, MobileVision's proposal does nothing to alleviate the potential interference problems for Part 15 users.

¹¹ See NTIA Special Publication 94-27, *Preliminary Spectrum Reallocation Report* (February 1994).

Finally, the radical changes Teletrac has made to its initial proposal and the degree of disagreement over significant technical and licensing issues among potential wideband LMS service providers leads to the conclusion that wideband LMS systems are not sufficiently developed at this time to justify their inclusion in the 902-928 MHz band. Accordingly, establishment of wideband LMS systems in the 902-928 MHz band is contrary to the public interest, and the Commission should terminate this proceeding.

Respectfully submitted,

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